

NINTH DAY

(Wednesday, January 24, 1973)

The Senate met at 10:30 o'clock a.m., pursuant to adjournment, and was called to order by the President.

The roll was called and the following Senators were present: Adams, Aikin, Andujar, Blanchard, Braecklein, Clower, Creighton, Gammage, Harrington, Harris, Herring, Hightower, Jones, Kothmann, Longoria, Mauzy, McKinnon, McKnight, Meier, Mengden, Moore, Ogg, Patman, Santiesteban, Schwartz, Sherman, Snelson, Traeger, Wallace and Wolff.

The following Senator was absent-excused: Brooks.

A quorum was announced present.

The Reverend Dr. Samuel N. Baxter, Rector, Church of the Good Shepherd, Austin, Texas, offered the invocation as follows:

O Lord Our God, in the face of life's mysteries and its vast imponderables, give us faith to believe that thou makest all things to work together for good to them that love thee. Strengthen our convictions that Thy hand is upon us, to lead us and to use us in working out Thy purposes in the world.

Even though we may not see the distant scene, let us be willing to take one step at a time, and trust Thee for the rest.

Today we are especially mindful of him who said: "I want a people who are fearless instead of fearful; men with pride in their ancestry and hope for their posterity; humble before their God and concerned always with the wants as well as the needs of their fellow human beings."

Grant to us Thy strength and guidance that we may work to fulfill these aims. And to Thy servant, Lyndon, give a place of refreshment, light and peace. May we live in the companionship of his spirit devoted to the community in which he lived, loyal to the causes which he served.

Thus in our lives may he still live on, to our own comfort and the welfare of Thy world. We ask all this in the Master's Name. Amen.

On motion of Senator Aikin and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

LEAVE OF ABSENCE

Senator Brooks was granted leave of absence for today on account of important business on motion of Senator Wallace.

RESOLUTION SIGNED

The President announced the signing in the presence of the Senate after the caption had been read, the following enrolled resolution:

S. C. R. 14

SENATE BILLS ON FIRST READING

The following bills were introduced, read first time and referred to the Committee indicated:

By Senators Herring and Santiesteban:

S.B. 34, A bill to be entitled An Act reforming the penal law; enacting a new Penal Code setting out general principles, defining offenses, and affixing punishments, making necessary conforming amendments to outside law; repealing replaced law; and declaring an emergency.

To Committee on Jurisprudence.

By Senator Meier:

S.B. 61, A bill to be entitled An Act relating to the admission in evidence of statements of an accused; amending Articles 38.21 and 38.22, Code of Criminal Procedure, 1965, as amended; and declaring an emergency.

To Committee on Jurisprudence.

By Senator Meier:

S.B. 62, A bill to be entitled An Act amending Article 38.23, Code of Criminal Procedure, 1965, as amended; defining and limiting the scope of the exclusionary rule; and providing rules governing the admission of evidence at the trial of a criminal case; and declaring an emergency.

To Committee on Jurisprudence.

By Senator Meier:

S.B. 63, A bill to be entitled An Act defining the term marijuana, relating to the possession and sale of such drug, providing penalties; amending Section 23, Chapter 169, Acts of the 45th Legislature, Regular Session, 1937, as amended (Article 725b, Vernon's Texas Penal Code); and declaring an emergency.

To Committee on Jurisprudence.

By Senators Brooks, Gammage, Schwartz, Mengden, Wallace and Ogg:

S.B. 64, A bill to be entitled An Act relating to the terms of court of the 182nd, 183rd, 184th and 185th District Courts; amending Sections 3.010, 3.011, 3.012, and 3.013, Judicial Districts Act of 1969 (Article 199a, Vernon's Texas Civil Statutes), by adding a Subsection (c); and declaring an emergency.

To Committee on Jurisprudence.

By Senator Adams:

S.B. 65, A bill to be entitled An Act prohibiting parole when a life sentence is assessed for a capital offense and requiring certain jury instructions concerning the times and conditions that a prisoner may be eligible for parole in capital cases; amending Subsections (a) and (b), Section 15, Article 42.12, Code of Criminal Procedure, 1965, as amended, and amending Section 3 and adding Sections 4 and 5, Article 37.07, Code of Criminal Procedure, 1965, as amended; and declaring an emergency.

To Committee on Jurisprudence.

SENATE RESOLUTION 31

Senator Hightower offered the following resolution:

BE IT RESOLVED, By the Senate of the State of Texas, 63rd Legislature, Regular Session, that the senate request the State Comptroller of Public Accounts to issue general revenue warrants for payment of the employees of the lieutenant governor's office, the lieutenant governor, members of the senate, and employees of senate committees upon presentation of a payroll account signed by the president of the senate and the secretary of the senate; and, be it further

RESOLVED, That the senate request the State Comptroller of Public Accounts to issue general revenue warrants for payment of employees of the senate, except as provided in Section 20 of the Legislative Reorganization Act (Article 5429f, Vernon's Texas Civil Statutes), upon presentation of the payroll account signed by the chairman of the administration committee and the

secretary of the senate; and, be it further

RESOLVED, That the senate request the State Comptroller of Public Accounts to issue general revenue warrants for the payment of materials, supplies and expenses of the senate, including travel expenses for members and employees, upon vouchers signed by the chairman of the senate committee on administration and the secretary of the senate.

The resolution was read and was adopted.

COMMITTEE SUBSTITUTE SENATE CONCURRENT RESOLUTION 1

The President laid before the Senate the following resolution:

C.S.S.C.R. 1, Creating the Texas Constitutional Revision Commission.

The resolution was read second time.

Senator Creighton offered the following amendment to the resolution:

Amend Committee Substitute for Senate Concurrent Resolution 1 by deleting Section Three, Sub-section D and substituting therefor the following:

"(d) The appointment shall be formalized by filing with the secretary of state a certificate of appointment identifying all 37 persons appointed to the commission and designating one of them chairman and one of them vice-chairman of the commission. The certificate of appointment must be signed by at least four members of the appointment committee."

The amendment was read and was adopted.

Senator Traeger offered the following amendment to the resolution:

Amend Section 9 of the Committee Substitute for S.C.R. 1 by adding the following subsection:

"(f) The Commission shall submit legal drafts to the Convention of all changes or alternative changes it proposes be made in the Constitution."

The amendment was read and was adopted.

Senator Andujar offered the following amendment to the resolution:

Amend Section 3(b) of the Committee Substitute for S.C.R. No. 1 by striking the second sentence and substituting therefor:

"The service of any other public officer or employee as one of the 37 members of the commission shall be considered an additional duty of his regular office or employment, and such officer or employee appointed pursuant to the provisions of this resolution shall be an ex officio commissioner."

The amendment was read and was adopted.

Senator Andujar offered the following amendment to the resolution:

Amend Section 10 of the Committee Substitute for S.C.R. 1 by striking the entire section and substituting the following:

"Sec. 10. FINANCIAL SUPPORT. The Commission may receive appropriations only from the Texas Legislature for its operations."

The amendment was read and was adopted.

Senator Blanchard offered the following amendment to the resolution:

Amend Section 5 of the Committee Substitute for S.C.R. 1 by striking the entire section and substituting therefor the following:

"Sec. 5. MEETING, CONDUCT OF BUSINESS. The Commission shall meet initially in Austin, Travis County, Texas, at the call of the chairman. The Commission shall adopt rules to govern the calling and holding of meetings and the conduct of its business generally; provided, however, that the Commission upon organization shall submit a budget and rules governing payment for staff, per diem, travel, (including out-of-state travel) and consultants to the appointment committee.

"A majority vote of the appointment committee shall be necessary for the approval of such rules and budget. On November 1, 1973 the Commission shall be required to submit a budget to the appointment committee for the conduct of its business from November 1, 1973 until the expiration date of said Commission, which budget must be approved by a majority of the appointment committee."

The amendment was read and was adopted.

Senator Blanchard offered the following amendment to the resolution:

Amend Section 6 of the Committee Substitute for S.C.R. 1 by striking the entire section and substituting therefor the following:

"Sec. 6. PER DIEM; EXPENSES. Each member of the commission is entitled to a per diem of \$50.00 for each day he spends attending to the business of the commission, including time spent in traveling, as provided by rule of the commission. Each member of the commission is entitled to reimbursement for actual and necessary travel and other expenses incurred while attending to the business of the commission, as provided by rule of the commission."

The amendment was read and was adopted.

Senator Blanchard offered the following amendment to the resolution:

Amend Section 8 of the Committee Substitute for S.C.R. 1 by striking the entire section and substituting therefor the following:

"Sec. 8. STAFF. (a) The commission shall employ and fix the compensation of an executive director."

"(b) The executive director, to the extent authorized by the commission, shall employ and fix the compensation of staff and consultants within approved budget limits."

The amendment was read and was adopted.

Senator Snelson offered the following amendment to the resolution:

Amend C.S.S.C.R. No. 1 by striking therefrom paragraph (b) of Section 9 of the bill and substituting in lieu thereof the following:

"(b) The commission shall provide for the maximum participation at the grass roots level by scheduling and holding open public hearings in a minimum of six (6) geographical areas of the State. To facilitate these public hearings, the commission is empowered to select citizen committees who shall serve without compensation or expenses in each of the geographical areas to assist in its work."

The amendment was read and was adopted.

The resolution as amended was then adopted by the following vote: Yeas 30, Nays 0.

Yeas: Adams, Aikin, Andujar, Blanchard, Braecklein, Clower, Creighton, Gammage, Harrington, Harris, Herring, Hightower, Jones, Kothmann, Longoria, Mauzy, McKinnon, McKnight, Meier, Mengden, Moore, Ogg, Patman, Santiesteban, Schwartz, Sherman, Snelson, Traeger, Wallace and Wolff.

Absent-excused: Brooks.

MEMORIAL RESOLUTIONS

S.R. 27 - By Senator Snelson: Memorial resolution for James Monroe "Jimmy" Cooksey II.

S.R. 28 - By Senator Snelson: Memorial resolution for Dr. Carl A. Kunath.

S.R. 29 - By Senator Snelson: Memorial resolution for Mrs. George W. Glass.

S.R. 30 - By Senator Snelson: Memorial resolution for Robert S. "Bob" Bickerstaff.

WELCOME AND CONGRATULATORY RESOLUTIONS

S.R. 32 - By Senator Herring: Extending congratulations to Fred W. Adams.

S.R. 33 - By Senator Herring: Extending congratulations to Judge Wilmer St. John Garwood.

S.R. 34 - By Senator Clower: Extending welcome to Bob Canon and Tom Eastland.

ADJOURNMENT

On motion of Senator Aikin the Senate at 11:06 o'clock a.m. adjourned until 9:30 o'clock a.m. tomorrow.

APPENDIX

Sent to Governor

January 24, 1973

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